

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

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**Response On Behalf of
Azovstal Iron and Steel Works,
Ilyich Iron and Steel Works
and ISTIL (Ukraine) Ltd.**

**On Potential Action
Under Section 203 of the Trade Act of 1974
With Regard to Imports of Certain Steel:**

Evaluation of Options for Action Under Section 203

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This Response is submitted on behalf of Azovstal Iron & Steel Works (“Azovstal”), Ilyich Iron & Steel Works (“Ilyich”), and ISTIL (Ukraine), Ltd (“ISTIL”) to address comments of domestic producers of carbon and alloy steel cold finished bars (CF Bar) and cut-to-length carbon and alloy steel plate (CTL Plate) that low priced imports, particularly from Ukraine, have devastated their industry by significantly underselling U.S. products.

As detailed below, the record compiled by the U.S. International Trade Commission (ITC) in its Section 201 investigation demonstrates this is not the case. On the contrary, the specific circumstances relating to imports of both these products from Ukraine demonstrate that tariff relief is inappropriate and unwarranted for both CF Bar and CTL Plate.

Imported CF Bars from Ukraine have not Undersold Comparable Domestic Products

As discussed in our December 28, 2001 Comments on behalf of Azovstal, Ilyich, and ISTIL, the term “CF Bar” encompasses a wide range of products subject to a variety of processes such as cold drawing, turning and polishing, grinding, stress relief annealing, straightening and cutting, cold rolling, chamfering, annealing, normalizing, and quenching and tempering.¹ By their very nature these processes result in finished products of widely differing value and market price. For example, the domestic prices for the two CF Bar products analyzed by the ITC, both one inch in diameter, differed by \$225 per ton during in the first quarter of 2001.² Also, during the ITC injury hearing, Counsel for the domestic CF Bar producers himself

<http://www.cfsbi.com>

² \$843.67 per ton for ITC Product 10A, CF Bar C12L14, one inch in diameter compared to \$618.78 per ton for ITC Product 10B, CF Bar C 1045, one inch in diameter.

pointed out that price differences between domestic products and imports may be related to differences in product mix rather than overselling or underselling.³

The specific circumstances relating to imports of CF Bars from Ukraine merely confirm that significant product variations exist among CF Bars due to differences in manufacturing processes among products. Although domestic producers allege these imports from Ukraine undersold domestic cold finished bars, the Ukrainian products are [

³ ITC Injury Hearing, November 20, 2001, transcript at 520.

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As set forth in our December 28, 2001 comments, the record compiled by the ITC in its investigation shows the average price of CF Bar imports overall was more than 10 percent above domestic CF Bar prices throughout the period of investigation. This means non-price factors such as product differences between domestic CF Bars and imports were the determinative factor in import sales.

Given the extremely varied nature of CF Bars and its wide application in different industries, ranging from transportation, agriculture, and construction, to office equipment, aerospace, and medicine,⁶ additional tariffs on CF Bars inevitably will be highly, and unpredictably, disruptive to numerous end users in many industries. Also, given the substantial overcapacity in this industry relative to imports, the imposition of additional tariffs will have little affect on the performance of the domestic industry.⁷ Under these circumstances the costs of additional tariffs will far exceed their benefits. On the other hand, quotas or tariff rate quotas might prevent potentially injurious import surges. For this reason, any Presidential action to restrict CF Bar imports should be in the form of quotas or tariff rate quotas rather than additional tariffs.

⁵ The ITC Staff Report shows [

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⁶ <http://www.cfsbi.com>

⁷ As detailed in our December 28 Comments, total CF bar imports were less than 20 percent of unused domestic CF bar capacity throughout the period of the ITC investigation. As a result, even were imports eliminated completely from the market, the industry's capacity utilization would be less than 55 percent based upon peak year 2000 imports and less than 50 percent based upon imports in the first half of 2001.

Imports of CTL Plate from Ukraine are not at Low Prices

The record compiled by the ITC in its investigation shows low priced imports have not impacted this industry. Import prices increased between 1996 and 1998 before returning to the 1996 price in 1999 and 2000, and increasing again during the first half of 2001 despite the weak economy, while domestic prices steadily declined throughout this period to a level below import prices:

**Average Prices of Domestic
and Imported CTL Plate
1996-2000, January-June 2001
(\$/ton)**

<u>Year</u>	<u>Average Domestic Price</u>	<u>Average Import Price</u>
1996	482	400
1997	473	423
1998	468	466
1999	400	399
2000	401	398
Jan-Jun 2001	379	409

With respect to Ukraine in particular, imports of CTL Plate are subject pursuant to a Suspension Agreement entered into in 1997 under Section 734(l) of Tariff Act of 1930, as amended, specifically intended to prevent suppression or undercutting of domestic prices. Section 734(l) authorizes the Department of Commerce to negotiate volume restriction agreements with nonmarket economy countries if the Commerce Department determines 1) such an agreement is in the public interest, 2) effective monitoring of the agreement is practicable, and 3) such an agreement “will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.”

Apart from the quotas established under the Suspension Agreement⁸, the Suspension Agreement also prohibits exports of CTL Plate from Ukraine below minimum FOB “Reference” prices to prevent these imports from suppressing or undercutting domestic prices. These reference prices are adjusted quarterly to reflect changes in the Bureau of Labor Producer Price Index for carbon steel plate.

The impact of these reference prices is apparent not only in the substantially reduced volume of imports, which in 2000 accounted for less than 4 percent of total plate imports, compared to 33.3 percent of total plate imports in 1996. These reference prices also have resulted import prices of CTL plate far above import prices of plate from most other significant supplying countries:

**US GENERAL IMPORTS
CUT-TO-LENGTH PLATE
TOP TEN SUPPLIERS 2000 AND JAN-OCT 2001
AVERAGE UNIT VALUE (MT)**

<u>Country</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>Jan-Oct 2001</u>
Germany	830	610	560	400
Canada		490	480	470
Belgium		480	460	420
Ukraine	400	500	310	440
China	360	340	300	320
Thailand	330	220	290	310
Australia	450	280	290	280
Korea, South	360	280	280	240

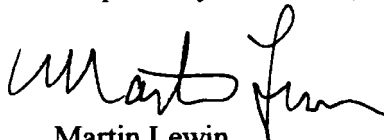
⁸ The Suspension Agreement established an annual export limit of 158,000 mt, adjusted annually to reflect changes in apparent consumption of CTL Plate. As a result, the current export limit for the period of November 2001 through October 2002 is just over 139,000 mt.

Czech Republic	390	260	280	270
Russia	340	340	260	330
Bulgaria	300	190	250	240

As can be seen, since 1998, the average price of CTL Plate imports from Ukraine has corresponded to the price of imports from the EU and Canada and has been significantly above the import prices of other developing countries as well as Australia.

However, given the impact of the existing reference prices on imports of CTL plate from Ukraine, the imposition of additional duties on CTL plate would place imports from Ukraine at a further competitive disadvantage in relation to imports from other supplying countries. For this reason, we request that any President action under Section 203 to restrict imports be in the form of quotas allocated on a country specific basis and that Ukraine be allocated a quota not less than that provided under the Suspension Agreement.⁹

Respectfully Submitted,



Martin Lewin,
On behalf of Azovstal, Ilyich, and
ISTIL

⁹ An allocation of quota to Ukraine at this level would not disproportionately favor Ukraine given its historic position as a CTL plate supplier in the U.S. import market. Despite the dramatic decline in the quantity and import market share of CTL plate from Ukraine in recent years, during over the period of 1996 through 2000 Ukraine accounted for 14 percent of total CTL plate imports. Allocated on this basis, Ukraine's share of Commissioner Okun's recommended Year 1 Quota on CTL Plate of 1,232,260 short tons would be 172,000 net tons, or 156,000 metric tons.

Attachment 1

(Document not capable
of public summarization)